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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,953	12/01/2003	Thomas Giles Butt		3597

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BRIGHTSPEED LEARNING INC.
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EXAMINER

MUSSELMAN, TIMOTHY A

ART UNIT PAPER NUMBER

3714

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,953

Applicant(s)

BUTT, THOMAS GILES

Examiner

Timothy Musselman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☒ Claim(s) 12, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/1/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/1/2006</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

[1] The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 114A. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the relevant sections of U.S.C. 102 that form the basis for the rejections under this section of the office action:

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.

Claims 1-5, 9-16, 26-32, 47, 49-50, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (US Patent 6,206,700).

[2] With respect to claim 1, Brown discloses in column 3, lines 35-67, a computer based system that communicates to a user an activity (i.e. a task) containing information from a note (i.e. stimuli, such as words, sentences, etc.) to a user for the purpose of teaching the user the material in the note, and

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receives responses from the user for the purpose of measuring the users' understanding of the material in the note.

[3] With respect to claim 2, Brown discloses in column 4, lines 1-15, that the system can modify the activity being presented to the user based on the measurement of user replies to the activity, and can communicate the modified activity to the user.

[4] With respect to claims 3 and 4, Brown discloses in column 4, lines 1-15, that the system can modify the activity as well as the level of difficulty, based on the measurement of user replies, so as to provide additional notes (i.e. stimuli with adjusted content) to the user. Brown further discloses in column 3, lines 50-60, that each task corresponds to a level of difficulty.

[5] With respect to claim 5, Brown discloses in column 9, lines 20-35, that the system is operable to determine the response time of the user to an activity, and can modify the activity based on said response time.

[6] With respect to claim 9, Brown discloses in column 3, lines 40-45, that the activity can be communicated to the user via a plurality of senses.

[7] With respect to claim 10, Brown discloses in column 11, lines 5-10, that the system is operable to select a new activity based on the measurement of user replies.

[8] With respect to claims 11-13, Brown discloses in column 9, lines 5-25, that the system is operable to determine the response time of the user to an activity, and can select a new activity based on said response time in addition to the measurement of the user replies. Brown discloses in column 8, lines 10-25, that the system can select the new activity from a study list.

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[9] With respect to claims 14-16, 26 and 27, Brown discloses in column 8, lines 10-60, that the system is operable to communicate the activity to the user from a study list, and that the study list can contain a plurality of notes, and that each of the plurality of notes is associated with at least one activity, and that the notes can contain at least one test question, or a plurality of test questions.

[10] With respect to claim 28, Brown discloses in column 4, lines 1-15, that the measurements of user replies correspond to a level of mastery, and that the software is operable not to communicate certain material from the task to the user unless a pre-determined level of mastery is reached. Brown further discloses in column 8, lines 25-40 that tasks can consist of test questions.

[11] With respect to claim 29, Brown discloses in column 4, lines 1-15, that the measurements of user replies corresponds to at least one level of mastery of the material by the user. Note that although the system described by Brown does not explicitly define a "level of mastery", it is an inherent part of the system, as the process of dynamically adjusting the presentation to the users would not be possible without first ascertaining a measure of the users level of mastery of the material.

[12] With respect to claim 30, Brown discloses in column 3, lines 55-60, that the system can be operable to receive a response from the user only within a predetermined time interval from the time the activity is communicated to the user.

[13] With respect to claims 31 and 32, Brown discloses in column 11, lines 5-10, that the system can select a new activity based on user replies, and in column 3, lines 55-60, that each activity has a corresponding level of difficulty. Brown discloses in column 4, lines 1-15, that the information from the note can be based on the measurement of the user replies.

[14] With respect to claim 47, Brown discloses in column 3, lines 35-45, that the system of claim 13 can be used in the study of languages, therefore it is inherent that the study list described in claim 13 would comprise a plurality of terms in a language to be learned.

[15] With respect to claims 49 and 50, Brown discloses in column 3, lines 55-60, that the system is operable to accept responses from the user only within a predetermined time interval, and in column 9, lines 20-35, that the system is operable to determine the response time of the user.

[16] With respect to claim 52, Brown discloses in column 3, lines 50-55 that the information contained in the notes can be nested.

Claim Rejections - 35 USC § 103

The following is a quotation of the relevant sections of U.S.C. 103 that form the basis for the rejections under this section of the office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Claims 6-8, 25, 17-20, 24, and 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US 6,206,700) in view of Boon (US 6,447,299).

[17] With respect to claims 6-8, Brown discloses a system that meets all of the limitations of claim 1 as described in paragraph 2 above. Brown fails to teach that the system can communicate the measurement of user replies to the user, can do so visually, and can do so continually. Boon teaches in column 7, lines 40-45, and illustrates in figures 16-18, that a measurement of user replies can be communicated to the

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user, both visually and continually (note that 'continually' is defined as the duration of the activity for the purposes of this office action). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to communicate the measurement of user replies as described by Boon, in the system of Brown, so as to provide real time feedback to the user as to their comprehension of the material.

[18] With respect to claims 17-20, Brown discloses a system that meets all of the limitations of claim 15 as described above in paragraph 9 above. Brown further teaches in column 11, lines 5-10, that the system can select a new activity based on the measurement of user replies, and in column 9, lines 5-25, that the system is operable to determine the response time of the user to an activity, and can select a new activity based on said response time as well as the measurement of user replies. Brown fails to teach that at least one of the plurality of notes can contain a visual clue as to the level of mastery of the note by a user. Boon teaches, in column 7, lines 40-45, and in figures 16-18, that a level of mastery can be associated with a visual clue (i.e. a number for display on a screen), and that said visual clue is based on a measurement of user replies. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the method of visually displaying clues as to a users mastery of an item described by Boon, in the study list disclosed by Brown, so as to provide the user with feedback as to their understanding of each of the plurality of notes.

[19] With respect to claim 24, Brown fails to teach that the system has the ability to communicate to the user the date when at least one of a plurality of notes was last communicated. Boon teaches in column 5, lines 50-55, the concept of storing the date when material was presented to a user for later display. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to insert the date stamping method described by Boon, into the system of Brown, so as to provide a time reference to the user to aid in the review of the material.

[20] With respect to claims 54-57, Brown disclose in column 3, lines 40-67, and column 4, lines 1-15, a system, method, and means for communicating an activity with information from a note to a user, receiving a response from the user and determining from the response a level of understanding of the user, and modifying the activity based on the replies of the user. In column 11, lines 5-10, Brown teaches of selecting a new activity based on the replies of the user. Brown fails to teach of communicating the progress of the user to said user. Boon teaches of communicating progress in an educational system to the user in column 10, lines 40-45. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to communicate the users' progress as described by Boon, in the system described by Brown, so as to provide feedback to the user so that they can track their progress.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US Patent #6,206,700) in view of Boon (US Patent 6,447,299), and in further view of Lee et al. (US Patent #5,788,508).

[21] With respect to claims 21-23, Brown/Boon, disclose a system that meets all of the limitations of claim 20 as described in paragraph 23 above. Brown further discloses in column 3, lines 35-45, that the system can be used for the study of languages, therefore it is inherent that the study list described in claim 15 would consist of data such as a plurality of terms in a language to be learned. Brown/Boon fail to teach that the visual clue as to the users' level of mastery of a note can be indicated by color. Lee teaches, in column 10, lines 25-30, that a users level of mastery can be indicated by a color on a computer display. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention, to use the color coded system described by Lee, in the system of Brown/Boon, so as to provide a simple and efficient visual indicator of a users level of mastery of a lesson.

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Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US Patent #6,206,700) in view of Lee et al. (US Patent #5,788,508).

[22] With respect to claims 33 and 34, Brown discloses a system that meets the limitations of claim 1 as described in paragraph 2 above. Brown fails to teach that the system has the ability to calculate a score based on user replies to a plurality of test questions, and that the system can compare the score of the user to the score of a second user. Lee teaches in column 10, lines 20-30, of comparing different users based upon scores obtained from replies to a plurality of questions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the score comparison method described by Lee in the system of Brown, so as to keep accurate records pertaining to the progress of various users in the system.

Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US Patent #6,206,700) in view of Lee et al. (US Patent #5,788,508) and in further view of Cook et al. (US Patent 6,427,063).

[23] With respect to claims 35-38, Brown/Lee disclose a system that meets all of the limitations of claim 33 as described in paragraph 22 above. Brown further teaches in column 4, lines 20-25, that a report can be generated pertaining to the users performance, and that said report can be communicated to the educator of the user. Lee further teaches in column 10, lines 15-30, that the report can include the users score (as defined in claim 33). Brown/Lee fail to teach that the system is operable to communicate the report to a user, or users parents. Cook teaches in column 7, lines 10-15, of communicating reports to a user of the system, or the users parents. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the method of communicating reports to a user or a users parents described by Cook, in the system of Brown/Lee, so as to inform interested parties of the score of a user.

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Claims 25, and 39-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (US Patent #6,206,700) in view of Cook et al. (US Patent 6,427,063).

[24] With respect to claim 25, Brown discloses a system that meets all of the limitations of claim 15 as described in paragraph 9 above. Brown fails to teach that the system is operable to communicate to the user for at least one of the plurality of notes, information corresponding to the measurement of the response of the user when said note was last communicated to the user. Cook teaches in column 7, lines 10-30, of communicating the measurement of a users understanding of a note (or notes), pertaining to the last time the note was communicated. Note that since the information generated in the report disclosed by Cook contains information regarding the users current understanding of a note, it will reflect information pertaining to the last time the user understanding of the note was acquired by the system, and hence is consistent with claim 25. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the method of communicating an understanding of an educational unit as described by Cook, in the system of Brown, so as to provide a convenient method for a user to decide which units need review.

[25] With respect to claims 39-43, Brown discloses a system that meets all of the limitations of claim 1 as described in paragraph 2 above. Brown further teaches in column 4, lines 20-25, that the system is operable to communicate a report to an educator of the user based on the responses of the user to a plurality of questions. Brown fails to teach that said report can be communicated to the user themselves, or to the parents of the user. Cook teaches in column 7, lines 10-30, of communicating reports to a user, or users parents. Therefore, it would have been obvious at the time of the invention, to use the method of communicating reports to a user or their parents described by Cook, in the system of Brown, so as to keep interested parties informed regarding the progress of the user.

[26] With respect to claim 44, Brown fails to teach that the activity can be received over the internet. Cook teaches in column 6, lines 15-25 that an educational system can be implemented over a network such as

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the internet. Therefore, it would have been obvious at the time of the invention, to implement the system described by Brown over the internet, as taught by Cook.

[27] With respect to claim 45, Brown fails to teach that the system can receive a plurality of activities, at least one of said activities arriving at a pre-determined time interval from the receipt of another of said activities. Cook teaches in column 49, lines 60-68, of scheduling educational materials on a pre-determined time schedule. If the time is pre-determined, the time interval will also be pre-determined. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the scheduling system described by Cook, in the system of Brown, so as to keep the user progressing efficiently through the educational process.

[28] With respect to claim 46, Brown fails to teach that the activities are available to the user for purchase over the internet. Cook teaches in column 27, lines 1-65, of how an educational system can be available for purchase over the internet. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to utilize the internet purchase method described by Cook, in the system of Brown, so as to allow for the easy purchase and distribution of the educational product.

Claims 48, 51, and 53 are rejected under 35 U.S.C. as being unpatentable over Brown et al. (US 6,206,700) in view of Richard et al. (US 6,162,060).

[29] With respect to claim 48, 51, and 53, Brown discloses a system that meets the requirements of claim 47 as described in paragraph 14 above. Brown fails to teach of the user attempting to choose from a plurality of possible answers, an answer that corresponds to the one of the plurality of terms (defined from claim 47) being communicated to the user. Brown also fails to teach of the user attempting to communicate an answer that corresponds to one of the plurality of terms being communicated to the user, and of the system requesting an alternate response if the answer is correct, but not desired. Richard teaches in column 13, line 50 – column 14, line 5, of the user choosing one answer that corresponds to a

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plurality of options (multiple choice), and of the user attempting to communicate an answer to the user that corresponds to one of the plurality of terms being communicated to the user (fill in the blank), and of the system not prompting for reentry regarding an answer that is a correct answer, but not the desired answer. Note that since the system of Richard can prompt the user for reentry of an answer that is not desired, regardless of whether it is correct or not, it effectively meets the limitations of claim 53.

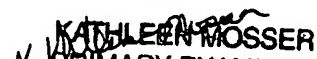
Therefore, it would have been obvious at the time of the invention, to use the questioning method described by Richard, in the system disclosed by Brown, so as to measure the users understanding of the presented material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Musselman whose telephone number is (571)272-1814. The examiner can normally be reached on M-F 7AM - 4PM*.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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PRIMARY EXAMINER